

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application of:

Charles E. Dunning and Richard B. Saathoff

: Examiner: Arpad Fabian Kovacs

U.S. Serial No. 10/724,316

: Art Unit 3671

Filed November 26, 2003

Docket No. CED 101

For: COLLECTOR AND SEPARATOR APPARATUS :

FOR LAWN AND GARDEN

Mail Stop RCE

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

**Statement of Charles Everett Dunning**

Sir:

In December of 2005, in connection with efforts to commercialize a machine based on the present invention, applicants first became aware of a commercial machine called the Bear Vac Pro 75011, which bears some superficial similarities to applicants' machine claimed in the subject application. In attempting to determine when the Bear Vac Pro 75011 was introduced, applicants became aware of an earlier Bear Cat machine, Model 72285, which was reportedly introduced more than one year before applicants' earliest filing. While applicants were unable to find literature relating to the

1/30/2006

72285 model, they did succeed in finding a still(!) unsold machine which they photographed, these photos being submitted herewith in compliance with applicants' duty of disclosure. The manufacturer's records reportedly indicate that this machine (identified by serial number) was transferred to the distributor in 1998. The Bear Cat model Bear Vac Pro 75011, which was apparently introduced to the market in 2002, is still being sold, and appears to be materially the same machine as the 72285. All materials available to the Applicants concerning these Bear Cat machines, including information downloaded from the Bear Cat Company website, are attached and are cited in the enclosed updated INFORMATION DISCLOSURE STATEMENT BY APPLICANT.

In a telephone conversation, Applicant Dunning informed Examiner Kovacs of the discovery of this conceivably relevant material shortly after it surfaced in December of 2005 and was informed that the Examiner had already passed the application to issue. Accordingly, Applicants are requesting continued examination of this application so that the Examiner will have the opportunity to review these materials prior to issuance of this application.

All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

If the Examiner has any questions regarding this correspondence, Charles Dunning can be reached at the phone numbers and addresses below.

Respectfully submitted,

A handwritten signature in black ink that reads "Charles Everett Dunning". The signature is written in a cursive, flowing style.

Charles Everett Dunning

January 30, 2006

Applicant

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Enclosures:

1. Photographs of the Bear Cat Model 72285
2. A copy of a Bear Cat Company promotional brochure (30M1112JR) obtained from a dealer in December 2005, including page 19 illustrating Bear Cat Model 75011
3. A copy of Cray Bear Cat Owner Operator's Manual For Models 75011 and 75111 (Manual P/N 14032-00, Rev.03/02) downloaded from company's internet website: <http://www.bearcatproducts.com>
4. A copy of Cray Bear Cat Parts Catalog for Models 75011 and 75111 (Part # 14031-00, Rev. 03/02), including assembly diagrams of these machines; downloaded from <http://www.bearcatproducts.com>
5. Updated INFORMATION DISCLOSURE STATEMENT BY APPLICANT